

REMARKS

Applicants respectfully traverse and request reconsideration. Applicants would like to thank the Examiner for the Examiner Interview on January 12, 2005 and for the agreements reached as described below.

As a preliminary matter, Applicants note that on page 4 in support of the restriction, the Office Action asserts that claims 56 and 57 are mutually exclusive from Species III as shown in FIG. 9. As a result, the Office Action refuses to rejoin Claims 14 and 26. The Office Action does not provide a reason for refusing to rejoin Claims 10, 19 and 22. However, as described in the previous Office Action, in order for claims to be properly restricted, the claims themselves must be restricted rather than the claims and the figures. (M.P.E.P. 806.04, 806.04(e) and 806.04(f)). Nevertheless, the Office Action improperly states that Claims 56 and 57 are mutually exclusive from Fig. 9. As previously stated, in order for claims to be properly restricted, the claims to be restricted to different species must be mutually exclusive. According to M.P.E.P. 806.04(f), the general test as to whether claims are restricted, respectively, to different species of claims is if one claim recites limitations which under the disclosure are found in a species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that the claims to be restricted to different species must recite the mutually exclusive characteristics of such species. Since claims 7, 10, 14, 19, 22 and 26 are all dependent from allowed independent claims 59-60, the independent claims cannot cite elements that are mutually exclusive from these dependent claims. As a result, these independent and dependent claims are not and can not be mutually exclusive and therefore a restriction of these claims is improper. Applicants traverse this restriction and respectfully request withdrawal of the restriction and rejoinder of at least claims 10, 14, 19, 22 and 26.

Claims 7, 10, 19 and 22 are objected to because they depend from previously restricted claims. As agreed during the Examiner Interview, claim 7 is amended to depend on allowed independent claim 57. Therefore, claim 7 is allowable as agreed during the Examiner Interview.

With respect to claims 10, 14, 19, 22, and 26, the Examiner asserts that these claims were previously restricted to Species III and therefore cannot now be amended to depend from a currently allowed independent claim. The restriction requirement is improper for at least the reasons provided above. Original Claims 10, 14, 19, 22 and 26 are amended to depend upon allowed independent claims. As a result Claims 10, 14, 19, 22 and 26 are allowable for at least the reasons that the independent claims are allowed.

Claim 59 is rejected under 35 U.S.C. § 103(a) based on Tanioka in view Distefano. As agreed during the Examiner Interview, amending claim 59 to include the claim language "wherein the planar top surface of the encapsulated structure and the top surface of the packaged semiconductor die are of equal distance from the substrate" would overcome the current rejection. Therefore, withdrawal of the rejection and allowance of the claim pursuant to the agreement reached during the Examiner Interview is hereby respectfully requested.

Applicants respectfully submit that the claims are in condition for allowance. The Examiner is invited to contact the below-listed attorney if the Examiner believes that a telephone conference will advance the prosecution of this application.

Respectfully submitted,

By: 

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